

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Willie Vaughn,)
)
Plaintiff,)
)
v.)
)
Smithfield, Wilson Casing Packing)
)
Defendants.)
)

)

C/A No.: 7:13-cv-02589-GRA

ORDER
(Written Opinion)

This matter comes before the Court for review of United States Magistrate Judge Jacquelyn D. Austin's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) DSC, and filed on file on January 3, 2014.

Plaintiff Willie Vaughn ("Plaintiff"), proceeding *pro se*, filed this action on September 23, 2013 pursuant to 42 U.S.C. § 1983. ECF No. 1. On November 25, 2013, Defendant Smithfield filed a Motion to Dismiss for Lack of Jurisdiction, and/or Motion to Transfer Venue, and/or Motion for a More Definite Statement. ECF No. 27. Plaintiff then filed a Motion to Dismiss this action on December 27, 2013. ECF No. 32. In the motion, Plaintiff requests a dismissal of his case in South Carolina because he works in North Carolina and plans to file his case there. *Id.* Magistrate Judge Austin issued a Report and Recommendation on January 3, 2014, recommending that this Court grant Plaintiff's Motion to Dismiss pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, and recommending that this Court dismiss Defendant Smithfield's Motion as moot. ECF No. 34. On January 21, 2014, Defendant Smithfield stipulated and agreed to a "dismissal without prejudice of all claims filed by

Plaintiff . . . in this action, as stipulated by [Plaintiff] in his motion to dismiss." ECF No. 38. Defendant Smithfield also filed a Consent Motion to Dismiss. ECF No. 40.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). In this case, objections to the Magistrate Judge's Report and Recommendation were due by January 21, 2014. ECF No. 34. Rather than objecting, Defendant Smithfield filed a Stipulation of Dismissal Without Prejudice agreeing to the dismissal without prejudice of Plaintiff's claims, ECF No. 38, and a Consent Motion to Dismiss, ECF No. 40.

Under Rule 41, a district court may dismiss an action “at the plaintiff’s request only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2). The Fourth Circuit has explained “[t]he decision to grant voluntary dismissal under Rule 41(a)(2) is a matter for the discretion of the district court, and its order will ordinarily not be reversed except for an abuse of discretion.” *Davis v. USX Corp.*, 819 F.2d 1270, 1273 (4th Cir. 1987). “The purpose of Rule 41(a)(2) is freely to allow voluntary dismissals unless the parties will be unfairly prejudiced.” *Id.*

After reviewing the record, this Court finds that the Magistrate Judge’s Report and Recommendation accurately summarizes the case and the applicable law. Accordingly, for the reasons articulated by the Magistrate Judge, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Plaintiff’s Motion to Dismiss, ECF No. 32, and Defendant Smithfield’s Consent Motion to Dismiss, ECF No. 40, are GRANTED, and Plaintiff’s claims are DISMISSED without prejudice.

IT IS FURTHER ORDERED that Defendant Smithfield’s Motion to Dismiss, ECF No. 27, is DENIED as moot.

IT IS SO ORDERED.



G. Ross Anderson, Jr.
Senior United States District Judge

January 22, 2014
Anderson, South Carolina